

Service Date: April 16, 2014

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Application of) REGULATORY DIVISION
NorthWestern Energy for Hydro Assets) DOCKET NO. D2013.12.85
Purchase) ORDER NO. 7323i

ORDER

PROCEDURAL HISTORY

1. On December 20, 2013, NorthWestern Corporation doing business as NorthWestern Energy (NorthWestern) filed its *Application for Hydro Assets Purchase* (Application) with the Montana Public Service Commission (Commission). The Commission issued a *Notice of Application and Intervention Deadline and Initial Procedural Schedule* on December 23, 2013.
2. On December 27, 2013, the Commission issued Data Request PSC-018(a), which asked NorthWestern to provide, “for each year represented in the LT Rev Req Model and the DCF Model . . . an itemized list of the capital expenditures included in the exhibits [attached to its Application] as aggregate figures.”
3. On January 3, 2014, the Montana Consumer Counsel (MCC) issued Data Requests MCC-009, which asked NorthWestern to “provide copies of all communications” with PPL Montana, LLC (PPLM).
4. On January 16, 2014, the Commission issued *Procedural Order 7323b*.
5. On January 17, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Information and Brief in Support* (First Motion), as well as the *Affidavit of Charles S. Baker*. In its First Motion, NorthWestern sought to protect “an itemized list of capital expenditures for PPLM's generation facilities (‘Confidential Cap-Ex List’) that was provided by PPLM.” 1st Mot. p. 2 (Jan. 17, 2014).
6. On January 21, 2014, the MCC issued Data Request MCC-057, which asked NorthWestern to provide “proposed budget forecasts for each unit at each plant.”

7. On January 24, 2014, NorthWestern objected to Data Request MCC-009 and filed a *Motion for Protective Order of Confidential Capital Expenditure Information and Brief in Support* (Second Motion) with another Affidavit from Mr. Baker. In its Second Motion, NorthWestern sought to protect “limited references to specific, future capital expenditures of PPLM.” 2d Mot. p. 2 (Jan. 24, 2014).

8. On January 28, 2014, the Commission granted NorthWestern’s First Motion, specifically protecting the “itemized list of capital expenditures (PPL Capital Expenditures) for the generation facilities currently owned by [PPLM].” See Or. 7323e ¶ 4 (Jan. 28, 2014).

9. On January 31, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Information Provided in Response to Data Request [MCC]-057¹ and Brief in Support* (Third Motion), with another Affidavit from Mr. Baker. In its Third Motion, NorthWestern sought to protect “references to capital expenditure projects and operations and maintenance, including descriptions of [PPLM’s] projects, budgeted costs, and projected, future costs.” 3d Mot. p. 3 (Jan. 31, 2014).

10. On February 3, 2014, the MCC responded to NorthWestern’s objection to Data Request MCC-009 through a *Response to Objections and Motion to Compel*. On February 6, the Commission partly overruled NorthWestern’s objection to Data Request MCC-009 (to the extent it was not narrowed by the MCC itself). See Notice of Commn. Action p. 4 (Feb. 10, 2014).

11. On February 13, 2014, the Commission granted NorthWestern’s Second and Third Motions, protecting “itemized, future capital expenditures planned by PPLM at its generation facilities” from public disclosure. Or. 7323f ¶ 19 (Feb. 13, 2014).

12. On February 18, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Information in MCC-009 Response and Brief in Support* (Fourth Motion) with another Affidavit from Mr. Baker. In its Fourth Motion, NorthWestern seeks to protect “a list of contracts related to future capital expenditures and operations and maintenance at the hydroelectric facilities.” 4th Mot. p. 2 (Feb. 18, 2014).

¹ In its Third Motion, NorthWestern mistakenly referred to Data Request **PSC**-057, which asked NorthWestern about its proposed capital structure, instead of Data Request **MCC**-057, which asked for proposed budget forecasts. See Or. 7323f at ¶ 5.

13. On February 20, 2014, the Commission published notice of NorthWestern's Fourth Motion in its weekly agenda, and issued Data Request PSC-130, which asked NorthWestern to provide specific "PPL Data Room Documents."

14. On February 21, 2014, the MCC issued Data Request MCC-202, which asked NorthWestern to provide specific "PPL Data Room Documents."

15. On March 3, 2014, NorthWestern separately filed *Objections to Data Requests PSC-130* and *Objections to Data Requests MCC-202*.

16. On March 4, 2014, NorthWestern separately filed a *Withdrawal of Objection to Certain Documents Requested in Data Request PSC-130* and *Withdrawal of Objection to Certain Documents Requested in Data Request MCC-202*.

17. On March 6, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Information in Response to Data Requests PSC-130 and MCC-202 and Brief in Support* (Fifth Motion) with another Affidavit from Mr. Baker. In its Fifth Motion, NorthWestern seeks to protect "specific, future capital expenditures and operation and maintenance costs of PPLM." 5th Mot. p. 2 (Mar. 6, 2014).

18. On March 10, 2014, the MCC filed a *Response to Objections* to respond to NorthWestern's objection to Data Request MCC-202.

19. On March 20, 2014, the Commission published notice of NorthWestern's Fifth Motion in its weekly agenda.

20. On April 4, 2014, the Commission overruled NorthWestern's objections to Data Requests PSC-130 and MCC-202.

FINDINGS OF FACT

21. As described by NorthWestern and Mr. Baker, the information that NorthWestern seeks to protect in its Fourth and Fifth Motions is substantially the same information for which NorthWestern sought, and was granted, protection in *Protective Order 7323e* and *Protective Order 7323f*. See *supra* ¶¶ 5, 7-9, 11-12, 16. Revealing this information would necessarily negate the protection granted.

CONCLUSIONS OF LAW

22. NorthWestern may submit the documents described in its Fourth and Fifth Motions in accordance with *Protective Order 7323e* and *Protective Order 7323f*; information submitted in accordance with these orders must be treated as confidential pursuant to Title 38, Subchapter 50 of the Administrative Rules of Montana. Or. 7323e at ¶ 15; Or. 7323f at ¶ 21.

DONE AND DATED this 15th day of April, 2014 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

W. A. GALLAGHER, Chairman

BOB LAKE, Vice Chairman

KIRK BUSHMAN, Commissioner

TRAVIS KAVULLA, Commissioner

ROGER KOOPMAN, Commissioner

ATTEST:

Aleisha Solem
Commission Secretary

(SEAL)